

[MR. DEPUTY SPEAKER in the Chair.]

PRIVATE MEMBERS' BILLS
MYSORE LEGISLATURE SALARIES (AMENDMENT) BILL, 1967

Motion to consider—(Debate continued).

MR. DEPUTY SPEAKER.—Would Sri Siddaveerappa like to speak on the amendment?

SRI S. R. KANTHI (Minister for Law).—Sir, he has already spoken.

SRI H. SIDDAVEERAPPA.—I had not had my full say; the ruling is reserved.

SRI S. R. KANTHI.—No doubt ruling is reserved but the hon'ble member did have his say. Under the rules no member can be allowed to speak twice on the same thing.

MR. DEPUTY SPEAKER.—He has spoken on the point of order.

SRI S. R. KANTHI.—Amendment has not yet been moved; let the amendment be moved and then let him speak.

SRI K. H. PATIL.—The hon. Minister for Parliamentary Affairs also has spoken several times on this.

SRI M. NAGAPPA (Raichur).—Sir, I may be allowed to explain further before a ruling given.

SRI S. R. KANTHI.—Let me amendment be moved first and then let the hon'ble member speak.

SRI H. SIDDAVEERAPPA.—Sir, you will be pleased to note that yesterday the Speaker advisedly reserved his ruling on this point of order raised by Sri Nagappa and said that any further clarifications may be given by hon'ble members. He postulated certain principles under which certain points may be discussed before he gives his ruling and that he would give a hearing. At that stage the House rose yesterday. I do not know whether the Minister for Parliamentary Affairs was present at that time in the House. In view of this, I may be permitted to have my say in the matter.

Sir, the point of order that was really raised yesterday was of great importance in this sense that this question of allowing an amendment to an amendment is taken up without having regard to any rule or any other precedent in any country and we are likely to be landed in very great difficulty and there will be no end for this kind of an amendment to be moved at any time to suit the needs of the ruling party.

SRI S. D. KOTHAVALA (Sankeshwar).—No question of ruling party here. The Bill is brought by one hon'ble member and another member has given an amendment.

Sri H. SIDDHAVEERAPPA.—There is very little difference between tweedledum and tweedledee. I would like to refer to rule 65 :

“Any member, other than a Minister, desiring to move for leave to introduce a Bill, shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and an explanatory Statement of Objects and Reasons which shall not contain argument ;

Provided that the Speaker may, if he thinks fit, revise the Statement of Objects and Reasons.”

Then, the question will be the period of notice ; that is there. Then rule 67 is another rule which we will have to look into with advantage now :

“If the Bill is a Bill which under the Constitution cannot be introduced without the previous sanction or recommendation of the Governor, the member shall annex to the notice such sanction or recommendation conveyed through a minister, and the notice shall not be valid until this requirement is complied with.”

4-00 P. M.

I am presently going to show how the amendment sought to be moved by Sri S. D. Kothavale is really in the nature of a Bill, though it is termed an amendment and having financial implication. It has been fairly conceded and it does not admit of further argument. Operation of Art. 207 of the constitution and read with Art. 199 always comes into being whenever financial implication is there. That is why when the hon'ble member moved the Bill it was asked whether the Governor's consent was taken because it is a constitutional necessity, which is imperative on the part of anybody who moved a Bill or an amendment to the Bill which is in its very nature or by implication, having financial implication. Then, Sir, see rule 68 :

“A Bill involving expenditure shall be accompanied by a financial memorandum which shall invite particular attention to the clauses involving expenditure and shall give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law.”

This is with reference to what Sri S. Sivappa said.

“Clauses or provisions in Bills involving expenditure from public funds shall be printed in thick types or in italics :

Provided that where a clause in a Bill involving expenditure is not printed in thick type or in italics, the Speaker may permit the member in charge of the Bill to bring such clauses to the notice of the Assembly.”

Then another clause which we can see is rule 80.

“If any member desires to move an amendment which under the Constitution cannot be moved without previous sanction or recommendation, he shall annex to the notice of the proposed amendment a copy of such sanction or recommendation and the notice shall not be valid until this requirement is complied with.”

The hon'ble member has given a day's notice for moving an amendment to the clause of the amending Bill which is already in existence. I can understand. Supposing by way of illustration, Sri Siddiah Kashimath has asked for Rs. 400 and supposing my friend had said Rs. 4,000. It does not require any further sanction of the Governor because it will be an amendment to the amending Bill already passed. Now, I would like to distinguish this way. Another new clause, a totally new clause, which has no relation whatsoever to the provisions of the Bill which is under discussion before this House, is sought to be introduced by the hon'ble member who has given notice of it and why they have done it and for what purpose have not been explained. I am going to read the Law of Parliaments, as to how it is necessary for them to show the purpose for which they want to bring. Another clause which we have to look is rule 81. My submission is, this amendment is not admissible under rule 81. It reads :

“81. The following conditions shall govern the admissibility of amendments to clauses or schedules of a Bill.—

(a) An amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates :”

Here, in this amending Bill of Sri Siddiah Kashimath there are relevant clauses and any amendment which they now seek to make should be correlated and should be relevant to the particular clause of the Bill which is now under discussion. My submission is, that the amendment that is sought to be given does not come under this sub-clause (a). It is a new clause and substantive clause which they now want to import into it.

“(b) An amendment shall not be inconsistent with any previous decision of the Assembly on the same question.”

This is important. There is a previous decision of this Assembly. It is published in Mysore Acts. It is an Act which is already thereon the anvil and it is an Act which governs us. I refer to the Mysore Legislators' Salaries Act 1956, Mysore Act II of 1957. Now, an amendment shall not be inconsistent with any decision of the Assembly on the same question. This is already decided by this House according to this Act. This will be inconsistent with the provisions of the Bill which is already there. Anything inconsistent with this, if at all it has to be taken up by the House it should be according to the procedure laid down under Arts. 199 and 207 of the Constitution, for the simple reason that it has

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a vital relation with regard to financial implications which I have already stated and I do not want to repeat and tire your patience.

Another clause which we have to look into is (d) of clause 81 :

“(d) If an amendment refers to, or is not intelligible without, a subsequent amendment or schedule, notice of the subsequent amendment or schedule shall be given before the first amendment is moved, so as to make the series of amendments intelligible as a whole.”

The amendment that is now sought to be given notice of by Sri S. D. Kothavale is governed by sub-clause (d). He is an experienced parliamentarian, a good lawyer. When Sri Siddiah Kasimath gave notice of his amendment, even before that amendment was taken into consideration, if really he wanted this House to understand the full implication thereof, this notice should have been given so that when his clause was taken into consideration by us, we could have known how his mind was working and the purpose for which it is sought to be made. It is governed by clause (d). This amendment is not intelligible. Why it is given? We are not moving in the air. There must be purpose and there should be an object and that object should be known to us, when that original clause is taken into consideration.

Then, Sir, take clause 82:

“The Speaker shall have power to select the new clause or amendments to be proposed, and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the object of the amendments as may enable him to form a judgment upon it.”

I therefore feel all these rules taken separately or taken together govern the amendment that is now sought to be given notice of by Sri S. D. Kothavale. There are very weighty authorities on this subject. We are all governed by the procedure that is to be seen in the Mother of Parliaments, in England. So far as our procedures are concerned, we are governed by the British system of democracy. There are two systems broadly—speaking one is American system and the other is the British system. We are governed by and large, though our constitution is not the verbatim copy of what is prevailing in Britain, by the provisions and rules followed by the House of Commons, the Mother of parliaments. We take what they say about it. With regard to the introduction of Bills, generally in their parliament, though of course parliament is the supreme authority any member may move a Bill, that too a private member's Bill. But they make a distinction broadly those that govern or affect the functions of the State generally the treasury benches or the ruling party has to bring that Bill. This one point will give an idea underlying that proposition.

"The initial phase of the legislative process is of course the introduction of a Bill, which means proposing a change in the existing legislation or the introduction of new legislation. It is what has been described as the first concept of what will ultimately become law. The power to take the step from which an Act of Parliament emerges and without which it would not exist is thus of the utmost importance. 'He who initiates legislation rules the land'.

The power to initiate legislation: It is implicit in the concept of democracy that the initiative in law-making rests primarily within the elected Parliament. In fact, in all countries, Parliament is directly vested with the power to introduce legislation, though obviously it shares the right with the executive.

Since its function is to apply a given policy, a Government is better acquainted than anyone else with the needs of the country, and because of the more and more complex nature of the problems that have to be solved, it is technically better equipped than individual Members of Parliament to draft Bills which will be unexceptionable from the legal standpoint. Hence, in most countries, the Government has the right to introduce legislation, whether the ministers are Members of Parliament or not. Where they are, it can be argued that Parliament has the exclusive right to initiate legislation."

This is a universally recognised principle. Though the President of America is the most powerful man, he cannot initiate any legislation. There any legislation will have to be initiated only by a member of the Congress. Whereas in a democracy of the type of Great Britain it is only the ruling party that can do it. It is only those gentlemen who have got the power to rule us today, who for the time being fortunately or unfortunately are holding the reins of Government, alone have the right to initiate legislation and none else :

"In most of the other bicameral Parliaments, the difference can be seen most clearly in financial matters, and it is based on the idea that the expenditure commitments or the introduction of taxation measures must be the preserve of the House elected by universal suffrage, on the principle that the people must give its consent to such financial burdens as it will have to bear."

In this case it cannot be disputed by anybody that if these Bills are passed there will be a financial commitment to the tune of Rs. 30 lakhs.

SRI S. D. KOTHAWALE.—It looks as if this is a classroom that is being addressed; there has to be some relevancy; the question is whether the present amendment is admissible or not?

Sri H. SIDDAVEERAPPA.—Sir, I am not yielding; even if it is midnight I am not going to yield to my friend; I must have my say in the matter.

Mr. DEPUTY SPEAKER.—What the Hon'member wants to say must have relation to the admissibility of the amendment.

Sri H. SIDDAVEERAPPA.—I am confining my arguments to the point at issue viz., the amendment that is now sought to be moved by my friend Sri Kothawale.

Mr. DEPUTY SPEAKER.—The arguments must be limited to the admissibility of the amendment.

Sri H. SIDDAVEERAPPA.—That is what exactly I am doing.

ಶ್ರೀ ಎನ್. ಹುಡ್ಗುಮಾಸ್ತಿಗೌಡ.—ಸ್ವಾಮಿ, ಮಾನ್ಯ ಸದಸ್ಯರಾದ ಶ್ರೀಮಾನ್ ಕೋರಾವಳಿ ಯವರು, ಸಿದ್ಧವೀರಪ್ಪನವರು ಮಾತನಾಡುತ್ತಾ ಇರುವಾಗ, ಒಂದೇ ಸಮನೆ ಮಧ್ಯೆ ಮಧ್ಯೆ ಮಾತನಾಡಿ ರನ್ಸಿಂಗ್ ಕಮೆಂಟರಿ ಮಾಡುತ್ತಾರೆ. ಅದು ಸರಿಯಲ್ಲ ಎಂದು ಹೇಳುವ ಅಧಿಕಾರ ತಮಗೆ ಇದೆ. ಒಂದೇ ಸಮನೆ ರನ್ಸಿಂಗ್ ಕಮೆಂಟರಿ ಮಾಡುತ್ತಾ ಇರುತ್ತಾರೆ ಮತ್ತು ಮಧ್ಯೆ ಮಧ್ಯೆ ಕೊಂದರೆ ಕೊಡುತ್ತಾರೆ. ತಾವು ಆಜ್ಞೆ ಮಾಡಿ ಇದನ್ನು ನಿಲ್ಲಿಸಬೇಕು. ಇದಕ್ಕೆ ಅವಕಾಶ ಕೊಡಬಾರದು. ರೂಲ್ಸ್‌ನಲ್ಲಿ ರನ್ಸಿಂಗ್ ಕಮೆಂಟರಿ ಮಾಡಬಾರದು ಎಂದಿದೆ.

ಶ್ರೀ ಆಜೀಡ್ ಪೇಟೆ (ನರಸಿಂಹರಾಜ).—ಪಾಯಿಂಟ್ ಆಫ್ ಆರ್ಡರ್ ಸರ್. ಶ್ರೀಮಾನ್ ಕೋರಾವಳಿಯವರು ಅಡ್ಮಿನಿಸ್ಟ್ರೇಟರ್ ಜನರಲ್ ಹಾಗೆ ವಾದ ಮಾಡುತ್ತಾರೆ. ಅವರಿಗೆ ಪೇಶನ್ಸ್ ಇರಬೇಕು. ಅವರಿಗೆ ಪೇಶನ್ಸ್ ಬರುವ ಹಾಗೆ ಇಂಚೆಕ್ಷನ್ ಕೊಡಬೇಕು ಎಂದು ಹೇಳು ತ್ತೇನೆ.

ಉಪಾಧ್ಯಕ್ಷರು.—ಇದು ಪಾಯಿಂಟ್ ಆಫ್ ಆರ್ಡರ್ ಅಲ್ಲ.

Sri A. P. APPANNA (Deputy Minister for Industries).—Sir, before a point of order is disposed of, another point of order cannot be raised.

(Three or four members were speaking simultaneously.)

Mr. DEPUTY SPEAKER.—Order, order.

The point of order raised by the Hon. Member Sri Huchmasthi Gowda is not a point of order. The hon. Member Sri Siddaveerappa should not have yielded.

Sri H. SIDDAVEERAPPA.—I was submitting to the Ghair how in Parliament private members have to initiate legislation.

“There would be no point in going into all the details of the way in which legislation is initiated and we shall merely consider the main aspects of this question in the light of parliamentary practice in the various countries.

“In those parliamentary systems which are most jealous of the individual right of Members of Parliament in legislative matters, the initiation of legislation is purely and simply an expression of will on the part of a member, given practical expression by handing in a Bill to the office qualified to receive it. In this connection, the French system is unusually liberal, and members of the French Parliament make full use of their

right to table a large number of Bills. In the USSR and in some of the People's Democracies, members can even introduce Bills orally, and have the terms of the Bill recorded in the minutes of the House. In some cases provision is made for prior submission of proposed legislation for the views of the Chairman or Speaker. This is the case, for example, in Japan ; here a Bill must also be accompanied by a memorandum explaining the background and in particular the financial implications in the event of its being passed. In Egypt, a special Bills and Petitions Committee decides whether proposed legislation is worthy of consideration. In Spain, a similar task is entrusted to a permanent Committee, and in Belgium to the House itself.

" In Parliaments of the British type, tabling of a Bill consists more often than not of a request by the author of the Bill for leave to introduce it, after the title (which states the purpose of the Bill), has first been placed on the order paper. Actually in the United Kingdom the right of members to introduce legislation can be expressed in three ways, based as always on a practical outlook which pays little heed to legal theory. There are also Private Bills which may be introduced by persons or bodies outside Parliament."

In Britain even a citizen may introduce Private Members Bill. He can give notice in law and that is also admissible. But with regard to financial matters, matters relating to taxation, matters relating to financial commitment or any additional financial burden to the State, it is only the Treasury Bench that can initiate such legislation because we will have to bear in mind we deal with the taxpayers' money, here. As representatives of the public for the time being having been elected to the Assembly under adult franchise, we will have to bear in mind that any proposal that we bring here has to be done as true representatives of the people. That is why they say those that are placed as majority party, those that are there to rule the State for the time being, they alone know how to raise taxes, how to bring finance and how to see that financial commitments are carried out. That is why with regard to financial measures, measures involving financial implications either of reduction or of enhancement of taxes, such measures will have to be undertaken only by the Government. It is only with regard to that that I was reading this narration.

Then we have the modern trends. What are the modern trends with regard to private members legislation? The modern trends are that as far as possible that should be the exclusive privilege of the Government of the day. No private member has any right to initiate any Bill involving financial commitment to the State. These few lines that I read will give us an idea why they say that so far as Bills involving financial measures are concerned, that will have to be done only by the Government.

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"Although the power to legislate is regarded everywhere as belonging absolutely to Parliament, the essential phase in which the process of legislation is set in motion appears under modern constitutional practice to be the sphere of action of the executive as well as of the legislature. The division thus established by constitutions between the two powers evolves constantly in favour of the Government and to the disadvantage of Parliament. This is a palpable fact which can be observed in most countries. Let us look at the reasons for this decline in Parliament's own initiation of legislation....."

If we compare here, the members of the Treasury Benches with the Minister for Parliamentary Affairs, stand on a different footing and we the other members stand on a different footing. The modern trends are that with regard to financial matters it is only the Treasury Benches that will have to move them and they alone have to take the full responsibility for that. That is why they say :

"The division thus established by constitutions between the two powers evolves constantly in favour of the Government and to the disadvantage of Parliament. This is a palpable fact which can be observed in most countries. Let us look at the reasons for this decline in Parliament's own initiation of legislation.

"In the first place it is the consequence of the complexity of modern Acts of Parliament, which require not only the 'creative imagination of a political brain but the combined knowledge of an economist and a specialist in a whole series of cognate sciences'. The Member of Parliament possesses in a lesser degree the technical facilities which the Government enjoys....."

ಶ್ರೀ ಎಂ. ಎನ್. ರಾಮಣ್ಣ (ತುರುವೇಕೆರೆ).—On a point of order, Sir. ನನಗೆ ಒಂದು ಅನುಮಾನ ಬಂದಿದೆ. ಮಾನ್ಯ ಸದಸ್ಯರು ಯಾವ ವಿಷಯದಮೇಲೆ ಮಾತನಾಡುತ್ತಿದ್ದಾರೋ ಅಳಿಯದು. ಅವರು 3 ದಿನಗಳವರೆಗೆ ಬೇಕಾದರೂ ಪುಸ್ತಕದಿಂದ ಓದುತ್ತಾ ಇರಬಹುದು. ಹೀಗೆ ಮಾಡುವುದು ಸರಿಯೇ? ಈ ವಿಚಾರದಲ್ಲಿ ಅಧ್ಯಕ್ಷರು ರೂಲಿಂಗ್ ಕೊಡಬೇಕೆಂದು ಪ್ರಾರ್ಥಿಸುತ್ತೇನೆ.

Sri M. RAMAPPA (Hosadurga).—I support the point of order raised by my friend. I would like to submit, we are unable to know as to what is going on in the House because we are under the impression that the limited question before the House is regarding the admissibility of the amendment moved by Sri Kothavale. On the question whether the Bill can be introduced by the hon'ble member, the Hon'ble Speaker has already given a ruling that the Bill can be introduced. Now the limited question is whether the amendment sought to be introduced is in order or not. It is only on that small point that the hon'ble member

Sri Siddaveerappa can enlighten the House. He is now making a big speech regarding introduction of the Bill itself. I submit that is outside the scope of the discussion now.

SRI B. D. JATTI (Minister for Food and Civil Supplies).—This question has been considered threadbare and the Speaker has given his ruling also. Why is it that the hon'ble member is raising it again and taking the time of the House?

SRI H. SIDDAVEERAPPA.—What I am speaking now is only with reference to the amendment sought to be moved by Sri Kothawale. The amendment, according to my humble submission, has to be certified by the Governor and without the Governor's consent it cannot be moved at all because it has a financial implication and as required under articles 199 and 207 it will have to be moved only with the Governor's consent. That is why I said, if at all my friends want to move it, let us do things constitutionally. If he wants to incorporate this, let him bring a separate Bill, get the certificate of the Governor under articles 199 and 207 in which case only it will be in order. It is only for this limited purpose, namely, that the amendment sought to be moved by Sri Kothavale is not really an amendment and that it is a new Bill which has financial implications in which case it will have to be brought only after the Governor's consent is obtained, that I have made this submission. I know with regard to the other Bill the Speaker has given a ruling and I bow to it. But on this point the Speaker has not given a ruling. Yesterday in view of the importance of the subject, the Speaker told us to take books from the Library, read them and then have our full say in the matter. Therefore, on this limited point I am now arguing namely that my friend Sri Kothavale's amendment which he has now sought to move, is really not an amendment at all and that in substance it is a new clause sought to be added to the original Bill. That is why I read the relevant rule on this subject.

4-30 P.M.

Now, Sir, the only point which will have to be looked into is this. At page 128 of the book 'Parliaments', it is stated as follows :—

“ In the first place it is the consequence of the complexity of modern Acts of Parliament, which require not only the creative imagination of a political brain but the combined knowledge of an economist and a specialist in a whole series of cognate sciences. The Member of Parliament possesses in a lesser degree the technical facilities which the Government enjoys, and thus his Bill often has a less privileged position than that of the Government, which has the skills of numerous experts at its disposal. The tendency also reflects the small amount of time which can be devoted to the examination of Private Members' Bills, Parliament's timetable being largely taken up in the legislative sphere by the study of measures proposed by the Government for carrying out its policy.

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Theoretically, even if a private member is convinced that his Bill has little chance of being taken up, there is nothing to prevent him from introducing it. In practice, if he belongs to the governing majority, he will seldom exercise his right, (in the case of my friend, Sri Kothavale, he will seldom exercise his right) since if his Bill is worthwhile, the Government itself will sponsor it. Hence in Western parliamentary practice, legislation initiated by private members is forthcoming more often than not from the opposition benches. In this case, introducing a Bill has a special significance which is far removed from the normal one, its main purpose being to embarrass the Government. More and more, in most Parliaments, the right to initiate legislation tends to be used only by the minority party. It goes to show what meagre prospects Private Member's Bills have, even in countries where they are still numerous, as in France. Those which go through, and are finally passed, are extremely few in number and represent only a small portion of the laws enacted: one quarter in France, one tenth in the United Kingdom."

Let not my friend, Sri Kothavale say that I am using any filibustering tactics. I am only interested in seeing that good precedents are created here. Afterwards, let there not be the impression that there is no substance in the amendment sought to be given by a member of the Ruling Party. It would be appropriate, nay it, would be necessary that the treasury benches will have to do it i.e., the Minister for Parliamentary Affairs is the gentleman, who should move this amendment?

Sri B. D. JATTI:—When the question of introduction of the Bill was considered, a private member was allowed to introduce the Bill, and on that point discussion took place and the Chair has given a Ruling. Now you are speaking about the amendment, and your contention is that he should take the previous approval of the Governor. Article 207 (3) reads as follows:—

"A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill."

Here, the amendment suggests only reduction; there is no question of any addition. Where is the question of taking approval of the Governor?

Sri H. SIDDAVEERAPPA.—Sir, my friend has not heard the earlier portion of what I have said. In substance, it will be seen from what I have read above, that since they are keeping mum (the members of the Treasury Benches), I am not far wrong in drawing the conclusion or a

presumption at least that in your opinion this is not a Bill that should be taken into consideration. There is no substance in the amendment as you can see because he is a member of the Ruling Party.

[Mr. SPEAKER in the Chair]

Just at the proper time, the Hon'ble Speaker is taking the Chair. Sir, I am reading from a book, called "Parliaments". Regarding the amendment, this is very relevant.

Mr. SPEAKER.—All the time given for both the Bills is over. I have only to apply guillotine.

Sri H. SIDDHAVEERAPPA.—Sir, this is a very important point. As I said yesterday, the decision that you give must be a healthy decision that should be followed by every other Legislature in the country.

Mr. SPEAKER.—Day-before-yesterday, the Clock did not stop. Please be brief.

Sri K. H. SRINIVAS.—(Sagar) Sir, I have one humble suggestion to make to the hon'ble member if he yields. Instead of making so many submissions from the book, he may kindly submit that book itself to the Hon'ble Speaker.

Sri H. SIDDHAVEERAPPA.—I would have done it, but I am sure the Hon'ble Speaker will have read every line of it. But the pity of it is, the hon'ble member who has moved the Bill has not even seen it. I am not reading this book line by line. Quotations are not barred. Even copious quotations were given once when the Hindu Code Bill was taken up for discussion in Parliament, and a muslim gentleman argued for ten days with copious authorities. I have to submit what I have to say. At page 170 of the book, regarding amendments, it is stated as follows.—

"The motion, as mentioned above, is a type of procedural tactic affecting the general course of the discussion; amendments on the other hand bear directly on the terms of the Bill they are designed to modify. Amendments in their turn are subject to scrutiny, first of all in committee, if they are submitted early enough, and then in the House. In both cases, the procedure is roughly the same.

"The right to submit amendments is universally recognized as one of the prerogatives of Members of Parliament, except in the Second Chamber in Austria and in the.....

"Where the right to submit amendments is placed on exactly the same footing as the right to introduce legislation, it means that Members of Parliament can propose the replacement of the whole Bill under discussion by another complete Bill based on

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different principles. In France, this system of indirect initiation of legislation is known as the alternative proposal or *countre-projet*. If such a 'countre-project' is taken up by Parliament, it is referred to the appropriate committee for further report.

"On the other hand, in some cases the fact that alternative proposals are tantamount to a new Bill makes them out of order."

Now, the amendment that is now sought to be made out as an alternative proposal tantamounts to a new Bill, which makes it out of order.

We should not take into consideration at all because if you agree with it, it would be a new principle altogether. There is a Supreme Court Decision and everybody is bound by that decision. Therefore with all humility at my command that the amendment that is sought to be moved by Kasimath Siddiah, should not be allowed to be moved, because it is out of order. If it is accepted it would amount to a new item of legislation without going through the fundamental of third reading laid down. It has to go all the three readings. He says about the reasonableness of my arguments. On the other hand if he correctly follows the procedure, this is not the procedure now adopted to be followed. It becomes altogether a new item of Legislation.

Sri D. M. SIDDIAH (Beligere).—I raise a point of order Sir. Mr. Azim Sait is always sitting on our side. Has he joined Congress party?

Mr. SPEAKER.—There is no merit in the point of order. What time will Sri Siddaveerappa take?

SRI H. SIDDAVEERAPPA.—I take more time still. I have to deal with elaborately. My friends will bear with me and agree with me. So far as amendments are concerned various distinctions are made in various countries. We have got 43 countries. The parliament of Britain is called the mother of Parliament. We are all following the principles and procedure of Britain. If at all an amendment is to be moved it should come in the form of amendment to be moved by the Treasury Benches and no private member has any right to do it.

"..... Sometimes there are restriction on the Subject matter which limit the admissibility of amendments—quite apart from the self evident and therefore more or less universal rule that amendments must refer to the Bill itself."

"That amendments must refer to the Bill itself", it does not refer to the Bill at all. It is a new matter by putting forth your own views and that requires the consent of the Governor."

"The main restrictions have to do with public money matters. Here practices differ very considerably."

Practices differ from countries to countries. In the United Kingdom—

“by a ‘recommendation by the Crown’ and provided they are in keeping with a money resolution already passed, specifying the maximum amount to be spent in the event of the Bill being passed.”

This is the position, and further—

“These are the main restrictions on the right to submit amendments, apart from the specific matter of the third reading in parliaments on the British model, where in principle only verbal amendments are admissible. In Burma and India in particular, amendments which are at variance with previous decisions of the House or make the amended clause unintelligible, or which the Speaker considers frivolous, are inadmissible.”

Therefore, friends on the other side cannot say it is irrelevant. Even in our country it is very clearly laid down that the amendments which are in variance with previous decisions of the House are in admissible. The previous decision has been laid down in the Legislature Salaries Act, 1956. That is the previous decision. Therefore ...

Mr. SPEAKER.—That is something about the Bill, and not about the amending Bill.

Sri S. R. KANTHI.—There are two points involved *i.e.*, whether amendments moved by Siddiah Kasimath requires recommendation of the Governor and whether the private member can move the amendment. These are the two points. He says something else. I think it is too much and he has taken one hour and 20 minutes already.

ಅಧ್ಯಕ್ಷರು ಈ ಎರಡು ಪಾಯಿಂಟುಗಳನ್ನು ಕನ್ನಡದ ಮಾತಿ ಅದರ ಬಗ್ಗೆ ಒಂದು ತೀರ್ಮಾನ ಕೊಟ್ಟು ಬಿಡಿ.....

ಶ್ರೀ ಎಂ. ಜಿ. ಬಣಕಾರ್ (ಬ್ಯಾಡಗಿ).—ಸರ್, ಪಾಯಿಂಟುಗಳ ಆರ್ಟಿಕಲ್. ಒಬ್ಬ ಮಾನ್ಯ ಸದಸ್ಯರು ಸಭೆ ಮುಂದೆ ತಮ್ಮ ಅಭಿಪ್ರಾಯವನ್ನು ವ್ಯಕ್ತಪಡಿಸುತ್ತಿರುವ ಕಾಲದಲ್ಲಿ, ಪಾರ್ಲಿಮೆಂಟರಿ ಆಫೀಸ್ ಮಂತ್ರಿಗಳು ಅವರ ಮಾತನ್ನು ಕೇಳದೆ ಅಧ್ಯಕ್ಷರು ಒಂದು ರೂಲಿಂಗನ್ನು ಕೊಟ್ಟು ಬಿಡಿ ಎಂದು ತಮಗೆ ಆದೇಶ ಕೊಡಬಹುದೇ? ಇದರ ಬಗ್ಗೆ ತಮ್ಮ ರೂಲಿಂಗನ್ನು ಕೊಡಬೇಕು.

Mr. SPEAKER.—It is all mistaken motion.

Sri H. SIDDAVEERAPPA.—In the British House of Commons Ceylon and in Pakistan, the Speaker has got his own discretion. He can use his discretion and decide things. Therefore, I am canvassing your support. I humbly submit to you that the amendment that is sought to be moved by Sri Kasimath Siddiah does not really find a place at all.

The principle has to be approached with infinite caution since it presupposes great impartiality on the part of the Chair as well as profound knowledge of the subject matter of the debate and an unusually acute political sense. Therefore I humbly submit to you that this question will have to be considered purely on its own merits as it will have to be done when you give your ruling. The basic principle involved

(SRI H. SIDDAVEERAPPA)

is too debatable, and its exercise too risky for it to be extended to other Parliaments, in spite of the unquestionable advantages it gives to the course of debate.

Then, Sir, I have got another point which I have got to say, and that is in regard to the rights of Members of Parliament in Financial Matters. "While the primary of the executive in regard to the preparation and presentation of the Budget is beyond dispute, the question does arise whether the Budget drawn up by the Government and submitted to Parliament for its approval must be accepted or turned down en bloc, or whether Parliament has the option of amending it more or less substantially. The considerations involved here are of two types: (a) Consideration of major policy'. If the principle sought to be introduced by Mr. Kothavale is to be accepted, I do not know what to say. "The fundamental importance of decision on the Budget which involve the entire nation has led democratic countries to grant Parliament powers of the most absolute kind, or in concrete terms the authority to increase or reduce as it thinks fit both revenue and expenditure, even to the point of discarding completely the Budget figures produced by the Government. (b) Technical considerations. The necessity for balancing the Budget, and in any case hard economic facts, place practical limits on the powers that may be exercised by Parliament to make changes in a Budget on which the economic and social development of an entire country depends. This is a technical 'must' which no state can ignore". Therefore, Sir, if we take all these facts into consideration, if we have to use our prerogative as a sovereign legislature body, we will have to take it from the context of various other points that have been raised: firstly our finances are in a grave type and the motive with which my learned friend has sought to introduce this amendment will have to be first made clear. He has to say 'this is the purpose for which I want the amendment to be made'. Apart from it, I have no doubt in my mind, it is clear, specific and unequivocal, namely, that this is not an amendment pure and simple at all. It is in the nature of a new Bill involving financial commitment and if this has to come up for consideration, it will have to be only after a certificate from the Governor. Therefore, Sir, I humbly submit simply because we have only a day to go through and after this Bill is over, the Ministers' Salaries Bill also will have to come up, let us not hurry up, let not the time factor be the only consideration. We have been drawing Rs. 250 salary. Heaven won't fall upon us, and nothing is going to happen. If necessary let us call for a special session for this grand purpose of putting more money into our pockets, and we will then consider it. Therefore, I personally feel that this is a Bill which should not be hustled through. On this point, I want you to kindly give us a considered ruling. With these few words, I take my seat.

Mr. SPEAKER.—Much of these grounds have been covered. I will give Sri Nagappa only five minutes to speak.

† Sri M. NAGAPPA.—Mr. Speaker, In connection with this amendment to the Amending Bill, we have to consider the provisions of rules 80 and 81. Rule 81 (a) says :

“An amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates.”

To find out within the scope of the Bill, we have to consider these aspects. First, we have to see the scope and reasons of the Bill. Next, we have to see the preamble of the Bill and lastly the entire provisions of the Bill. These are the points on which it could be concluded whether the amendment is within the scope of the amending Bill. So, to consider this, I will submit before the Hon'ble House what are the statement of objects and reasons that are given under the Bill. Two reasons have been shown. One is having regard to the present cost of living, it is necessary to increase the salaries and allowances. Secondary this salary has been fixed several years ago. The intention of the mover is that he wants increase in the salaries of the Hon'ble Speaker, Deputy Speaker, Chairman and Deputy Chairman and Members of both the Houses. So, in view of this, the amendment that has been moved before this House does not come under this because it curtails the rights that are being provided by this particular amending Bill. If the amendment is allowed, that curtails the power of drawing salary. It is therefore contrary to the Bill that has been moved before this House. If for a moment it is considered that it may be accepted, it will create as stated by Sri Siddaveerappa an alternative clause. Whether an alternative clause is permissible under the provisions of Rule 81 (a) is to be considered. For this, I will quote Parliament, pages 171 and 172. Sir this is a Chapter on amendments. “If such a counter-project is taken up by Parliament, it is referred to the appropriate committee for further report. On the other hand, in some cases the fact that alternative proposals are tantamount to a new Bill makes them out of order. In Spain, for example, if an amendment is tantamount to a substantive change in the Bill, it must be treated as a new Bill and go through the ordinary legislative channels. Similarly, in Denmark and Iceland, an amendment to a Bill cannot be submitted if it is so far from the original that, if passed, it would amount to the enactment of a new item of legislation, without the formality of the three readings laid down in the Constitution.” So, if that amendment moved to the Amending Bill is accepted that will become an alternative clause because the members who are now drawing a salary of Rs. 250 will be given the option by adding this clause either to draw Rs. 250 or part of that, or Rs. 350 or whatever they wish. That discretion, that alternative will be created by including this particular amendment in this provision. So, that will be an alternative for this.

5-00 P.M.

The second point which I wish to submit is this : We are not going to change the entire provisions of the original Act. We are only taking

(SRI M. NAGAPPA)

certain provisions wherein numerical changes are being made, and nothing else. Instead of 100, we are entering 150. In some of the provisions, 150 is there and 250 we are adding. We are only effecting numerical changes to clause 8. Considering that aspect, if we add this provision, it will amount to this amendment being made in this particular amending Bill and it will be deemed that this is being made to the original Act which is not under consideration by this House.

As I have already said, there was also a ruling in the House of the People. HOP debates Part II dated 11-7-52 (col. 3609-10). The point involved there before the Parliament was regarding an amendment to the Criminal Procedure Code. There the definition of ARMY was extended. Some amendments were brought. The Hon'ble Speaker ruled out. I will read :

“If a particular section is sought to be amended by a Bill by the addition of certain words which makes a substantial change in the wording of the section and if we feel that particular section should also be altered in some other way so as to obviate certain dangerous consequences which might follow would declare that amendment to be out of order.”

Here also, because we are making numerical changes in that section, if we add this proviso, this causes dangerous precedents, because it means no amendment at all. Every person has a right to forego the amount when that amendment is put in. He cannot claim 250 or 400. By adding this new clause, it is not going to help us.

Apart from that, I may say that this amendment is unintelligible and is made in a spirit of mockery. It is nothing but a mockery. Here every member has got a substantive right. He may claim the amount or he may not. Nobody is forced to claim the amount. In the face of that, if we add this particular provision, by way of mockery, it amounts to no amendment at all. Such provision which will not amount to an amendment, is no amendment at all, and it becomes unintelligible. Such provision should not be added by way of amendment to the provisions of this Bill.

I will also show that they are contrary. Here if you add this, there will be a contradiction also, because every Member has got a right to draw either Rs. 250 or he must not draw anything. According to the amendment, no portion of the amount can be claimed. That creates a contradiction in that particular Bill if this amendment is allowed and if it is to be ruled as being within the scope.

If you consider the preamble and the statement of objects and reasons, also this cannot be reduced because it has already been stated that the original amending Bill is moved for the purpose of enhancing the salaries whereas the amendment moved is to reduce the amount.

In the circumstances, I submit that the amendment that has been moved under rule 81 (a) will not come within the scope of this and it is also unintelligible and is inconsistent with the provisions of the Act and as such, it becomes a meaningless legislation.

So, I submit that the Hon'ble Speaker will give a considered ruling on this point.

† Sri L. SRIKANTIAH.—I will quote only two authorities in support of this. One is from the Practice and Procedure of Indian Parliament — page 397, and House of the People debates Vol. 48—1954 and volume 4—1954. I shall forward the books to you. Page 397 of the Practice and Procedure of Indian Parliament reads :

“ *The amending Bill* :—A Bill is usually introduced for the purpose of amending some part of an existing Act. Such an amending Bill carried some limitation.

Amendments :—There are numerous rulings limiting the scope of amendments which are permissible or otherwise. Some of them are briefly summarised here.

The fact that a Bill seeks to make certain amendments in an Act does not lay open the entire Act for the consideration of the House.

All amendments relating to an amending Bill must clearly be within the scope of the amending Bill.

An amendment amending a section of the original Act is out of order when the amending Bill does not purport to touch that section.

A particular section of an Act may comprise various distinct subject matters. Merely because a portion of that section is touched by the amending Bill there cannot be amendments to the rest of the section untouched.

But if the member in charge of the Bill agrees that the joint committee can consider amendments to any other sections in the original Act though not touched by the amending Bill the amendments to other sections are permissible.

Though normally no amendment to a section in the principal Act not touched in the amending Bill or in the report of the select committee is permissible, it is possible to conceive that the matter may be connected, may form part of one substance, and may, therefore require an amendment to another section which is not touched by the particular amending Bill. Such amendments are permissible. The substance of the matter has to be looked to.

Following the principle amendments by Government to sections in the original Act untouched by the amending Bill were also held to be out of order.”

(SRI L. SREEKANTIAH)

The other reference I want to submit to the Chair is L.A. Debate-1935. I am passing on this book also for your kind perusal. It is stated in that :

“further, particular section of the Act may comprise various and distinct subject matters, merely because a portion of that Section is touched by the amending Bill, there cannot be amendment to the rest of the sections untouched.”

†Sri S. D. KOTHAVALA.—I have two books with me. One is : “Parliamentary Procedure in India” by A. R. Mukherjea, and the other, “Legislative Assembly Debates, 1964, Vol. III.” They decide these points. It could be seen from them that when a particular section is under amendment, any amendment to that amendment can be brought. In my own humble way, I have made a study of them and come to that conclusion. I shall read a couple of lines from the “Parliamentary Procedure in India” by Mukherjea :

“*Amendments to Amending Bills*: When a Bill seeks to amend an Act, the question of the scope of amendment often arises in the form whether amendments to the provisions of the Act which are not sought to be amended are admissible or not. In such a case, if the amending Bill has what is known as an open preamble, i.e., if the amending Bill seeks to amend the parent Act without any limitation, all the provisions of the parent Act are open to amendment. But if the preamble is a restricted one, as is often the case, i.e., if the amending Bill seeks to amend the parent Act in the following manner and for certain purposes, provisions which are sought to be amended are only open to amendment.”

Here the amending Bill only seeks to further amend the Mysore Legislature Salaries Act, 1956. This is open ; nothing is restrictive. Though our present amendment only relates to Section 11 of the parent Act, if it was an amendment to some other Section also, that too could have been permitted. That has been decided in the ruling.

Here, in another case, in the Central, Legislative Assembly, Mr. R. K. Shanmukham Chetty, has given the following ruling.—

“It is, however, conceivable that in certain exceptional cases the scope of an amending Bill might be covered by certain sections of the original Act which are not specifically referred to in the amending Bill. If such a contingency arises, it would be in order to move amendments for those relevant sections. In this particular case, applying these principles, we have to find out what exactly is the scope of the Bill that is before the House. The scope of the Bill is to extend the life of the Salt Import Duty Act. The Chair must hold that when Government come before the House with an amending Bill to extend

the life of an existing Act which imposes a duty or levies taxation, the amount of that duty or taxation will also be open for discussion.....Therefore, all amendments which aim at reducing the amount of duty would be in order in such circumstances.

The amendment was admitted. Though it was principally an amending Bill, extension of the particular legislation and the point involving financial implications were permitted.

I have also jotted one or two points. In the case of the Representation of peoples Second Amendment Bill, 1956, as reported by the Select Committee, as many as 15 amendments to the Sections of the parent Act not touched by the Bill, were allowed to be moved. Out of them, two Amendments were adopted by the House. (*Vide Lok Sabha Debates* date April 1961.

In this case, the scope of the amendment may be seen. It does not introduce anything as is made out. Section 11 of the parent Act makes provision for payment of certain emoluments to the Members of the Legislature. Now, in my amendment only a provision is put to enable members not to receive their salaries if they so chose. No financial implications are involved, as was pointed by the hon. Member on the other side. Article 207 of the Constitution does not come in when there is reduction in taxation and reduction in the expenditure from the Consolidated Fund of the State of Mysore. So, Art. 207 also does not apply here because it does not involve any financial implications. It is relevant when something is paid out. Now, under the amendment in question, it is left to the Members to take their salaries or reject; it does not interfere with one's option: it is left to the volition of every Member. So, there is nothing inconsistent or unintelligible. Therefore, it is admissible.

SPEAKER'S RULING *re* : AMENDMENT TO AN AMENDING BILL.

Mr. SPEAKER.—I will deliver the ruling. I request the Members not to interrupt me because I have heard them to the fullest extent.

Sri AZEEZ SAIT.—May I make a request? Why all this confusion? If the hon. Member could think of withdrawing it, the whole botheration would go.

Mr. SPEAKER.—I made a request to all the hon. Members. This hon. member appears to be an exception to all rules! He does not sit in his seat. He does not know what he is doing.

The House had the advantage of the fullest deliberation on some of the fine points that have been presented for debate. I must sincerely thank the Members who have taken such infinite pains to enlighten the House, and I am sure that this enlightenment will eliminate for the present and the future any doubt about the matters that have been discussed today.